

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

WILLIE E. FARMER,

Plaintiff,

Case. No. 18-13189

v.

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

UNITED STATES OF AMERICA,

Defendant.

**ORDER ADOPTING REPORT & RECOMMENDATION, GRANTING DEFENDANT'S
MOTION TO DISMISS, AND DISMISSING PLAINTIFF'S COMPLAINT**

In September 2018, Plaintiff Willie E. Farmer filed a complaint in the 70th District Court for the State of Michigan against Jeffrey Hunter, an employee of the U.S. Fish and Wildlife Service. ECF No. 1. It alleged the following

I was sitting on my porch, I saw 2 city police pass by my house, and they came back about 20 mi, and they pulled out in front of my yard, the federal police came and said who is the owner of the house, I said why then he said he want to ask me if who cut the grass next 'door'... I said me, and then he said the grass belong to wildlife US fish & wildlife. I didn't respond, and then he said he had to call 911, to come because he said the owner of 2105 he called in and the owner has a warrant for his arrest, so he work for the police and he had to have me arrested...They put handcuffs on me not telling me what wuz the warrant for or they did not read me my 'rights'. They took my weed out my pockets, they left me in the police car for 15 mi, it waz hot. He didn't let the window down, then the Saginaw police officer went to talk to my 8jr. old. I got everything on my home video. I want the judge to see that video. I was harassed harrissed and, racial discrimination . . . sue, 25,000 harrissmet/racial discriminate. 9/10/18.

Id.

On October 12, 2018, Hunter removed the case to federal court, claiming that he had been acting within the scope of his employment as a federal employee during the alleged

incident and that pursuant to 28 U.S.C. §1442, this Court had subject matter jurisdiction. *Id.* A few days later, Hunter filed a notice of substitution substituting the United States of America (“Government”) as the Defendant, again claiming that he had been acting within the scope of his employment at the time of the alleged incident. ECF No. 2. Plaintiff did not file a motion opposing this substitution.

On October 31, 2018, the Government filed a motion to dismiss Plaintiff’s claim, arguing that the claim did not allege a waiver of sovereign immunity by the Government nor did it allege sufficient factual matter to state a claim upon which relief could be granted. ECF No. 5. Plaintiff did not submit a response, despite an order issued November 9, 2018 requiring him to do so. ECF No. 9.

The matter was referred to Magistrate Judge Patricia T. Morris. ECF No. 7. On January 31, 2019, Judge Morris issued a report, recommending that the Government’s motion be granted and Plaintiff’s complaint dismissed. ECF No. 11.

Although the magistrate judge’s report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither party has filed any objections. The election not to file objections to the magistrate judge’s report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. *Id.*

Accordingly, it is **ORDERED** that the magistrate judge’s report and recommendation, ECF No. 11, is **ADOPTED**.

It is further **ORDERED** that Defendant's motion to dismiss, ECF No. 5, be **GRANTED**.

It is further **ORDERED** that Plaintiff's complaint be **DISMISSED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: March 6, 2019

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Willie E. Farmer**, 2105 Maple St. Saginaw, MI 48602 by first class U.S. mail on March 6, 2019.

s/Kelly Winslow
KELLY WINSLOW, Case Manager